

BEFORE THE STATE PARKS AND RECREATION BOARD  
OF THE STATE OF MONTANA

In the matter of the adoption of New     ) NOTICE OF ADOPTION  
Rules I through XXIV pertaining to     )  
state parks public use                     )

TO: All Concerned Persons

1. On March 18, 2016, the State Parks and Recreation Board (board) published MAR Notice No. 12-462 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 482 of the 2016 Montana Administrative Register, Issue Number 6.

2. The board has adopted the following rules as proposed: New Rule I (12.8.801), II (12.8.802), III (12.8.803), IV (12.8.804), V (12.8.805), VI (12.8.806), VII (12.8.807), VIII (12.8.808), IX (12.8.809), X (12.8.810), XI (12.8.811), XII (12.8.812), XIII (12.8.813), XIV (12.8.814), XV (12.8.815), XVI (12.8.816), XVIII (12.8.818), XIX (12.8.819), XX (12.8.820), XXI (12.8.821), XXII (12.8.822), XXIII (12.8.823), XXIV (12.8.824).

3. The board has adopted the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE XVII (12.8.817) GEOCACHING (1) Placement of any geocache in a state park requires a permit approved by the park manager.

(a) The permit will be valid for ~~no more than two consecutive~~ three years and may be reissued ~~for an additional two consecutive years, after which the geocache must be removed upon expiration.~~

(b) through (2) remain as proposed.

(3) Geocaches may not contain the following items:

(a) through (g) remain as proposed;

(h) money in excess of five U.S. dollars; and

(i) through (4) remain as proposed.

4. The board has thoroughly considered the comments and testimony received. A summary of the comments received and the board's responses are as follows:

Comment 1: The board received comments related to New Rule XVII, Geocaching, expressing concerns that limiting the total time a geocache can be in place to four years diminishes the geocaching experience because older caches are seen as highly desirable.

Response 1: The board has amended proposed New Rule XVII to remove the four-year limitation on geocaches.

Comment 2: The board received comments related to New Rule XVII, Geocaching, opposing language that prohibited money in geocaches because coinage and trackable one dollar bills are desirable geocache items.

Response 2: The board has amended New Rule XVII to prohibit money in excess of five U.S. dollars so as to allow coinage and one-dollar bills while maintaining the intent of the original language to minimize the use of geocaches for exchange of items of significant value.

Comment 3: The board received a comment related to New Rule XVII, Geocaching, opposing charging fees for establishing a geocache in a state park.

Response 3: While the rule does require permitting of geocaches, it does not establish or require a fee for obtaining a geocache permit.

Comment 4: The board received a comment related to New Rule XI, Hunting and Trapping, suggesting that regional supervisors determine in which state parks hunting is allowed, rather than regional park managers or the parks and recreation board.

Response 4: The board has determined the decision-making authority on hunting in state parks should lie with it, rather than with regional supervisors or regional park managers. Regional park managers will provide recommendations and input to the board as it makes these determinations. Doing so will ensure public input is received through the board's formal public comment process.

Comment 5: The board received a comment related to New Rule XI, Hunting and Trapping, suggesting that the rule should be changed to say that hunting, fishing, and trapping in state parks is permitted except where restricted.

Response 5: Due to increasing visitation, the relatively small size of many parks, and corresponding concerns over public safety, the board has determined that hunting and trapping should be prohibited except where specifically authorized. Fishing will continue to be allowed as it is currently.

Comment 6: The board received a comment related to New Rule XI, Hunting and Trapping, indicating any new restrictions on hunting, trapping, or fishing should only be implemented after public input.

Response 6: The board's formal decision-making and public-comment process allows this type of input.

Comment 7: The board received a comment related to New Rule XI, Hunting and Trapping, indicating that trap setbacks should be the same as the Department of Natural Resources and Conservation to ensure consistency.

Response 7: This comment is outside the scope of this rulemaking process. Any trap setback requirements will be determined by the Fish and Wildlife Commission during its annual season-setting process.

Comment 8: The board received comments in general support and appreciation of the proposed rules.

Response 8: The board appreciates your participation in this rulemaking process.

Comment 9: The board received a comment related to New Rule II, Property Disturbance, expressing concern with the prohibition on removing dead or live fish from a state park. The comment stated that fishing should be an appropriate use of a state park.

Response 9: The rule prohibits removal of dead or live fish "except where otherwise authorized." It is the intent of the board to continue to allow fishing as authorized and licensed through current fishing regulations.

Comment 10: The board received a comment opposing New Rule XVI, Unmanned Aircraft Systems and Model Aircraft, and the prohibition of unmanned aircraft.

Response 10: The rule allows individual park managers to designate areas where use of unmanned aircraft or model aircraft may be used. This allows managers to determine where such use may take place without interfering with others' use of state parks.

Comment 11: The board received a comment recommending adding language to increase the penalty for littering.

Response 11: The board has determined the current penalties for littering are appropriate.

Comment 12: The board received a comment related to implementation of New Rule VIII, Control of Animals, concerning whether the board could sell impounded livestock and keep the proceeds for state parks.

Response 12: The board has determined that the proposed rule language is the most practical way of dealing with the situation.

Comment 13: The board received a comment related to New Rule IX, Horses and Pack Animals, expressing support for the rule, but questioning how it would be enforced and whether visitors would need a permit.

Response 13: The rule does not require a permit to use horses or pack animals in a state park. The board feels that much of the rule would be implemented through visitor education.

Comment 14: The board received a comment suggesting inclusion of a rule requiring carry in/carry out or "Leave No Trace" principles for disposal of human waste during backcountry use.

Response 14: The board supports "Leave No Trace" principles, but prefers to educate visitors and seek voluntary compliance with method of disposal at this time.

Comment 15: The board received a comment in support of the prohibition of domestic animals running at large in state parks and requesting the rule apply year around in all state parks.

Response 15: The board has chosen to maintain a level of flexibility to allow this use depending upon park and use conditions.

Comment 16: The board received a comment opposing the number of rules.

Response 16: The board has developed these rules in response to current visitor use and demonstrated needs.

Comment 17: The board received comments in support of management of Travelers' Rest State Park.

Response 17: These comments are outside the scope of this rulemaking process.

Comment 18: The board received a comment related to interpretation of mercury at Travelers' Rest State Park.

Response 18: This comment is outside the scope of this rulemaking process.

/s/ Zach Zipfel  
Zach Zipfel  
Rule Reviewer

/s/ Tom Towe  
Tom Towe  
Chairman  
State Parks and Recreation Board

Certified to the Secretary of State April 25, 2016